

1 HOUSE BILL NO. 2110
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
 3 (Proposed by the House Committee on Finance
 4 on _____)
 5 (Patron Prior to Substitute--Delegate Bourne)

6 A BILL to amend and reenact § 58.1-3965 of the Code of Virginia, relating to delinquent tax lands.

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That § 58.1-3965 of the Code of Virginia is amended and reenacted as follows:**

9 **§ 58.1-3965. When land may be sold for delinquent taxes; notice of sale; owner's right of**
10 **redemption.**

11 A. When any taxes on any real estate in a locality are delinquent on December 31 following the
12 second anniversary of the date on which such taxes have become due, or, in the case of real property upon
13 which is situated (i) any structure that has been condemned by the local building official pursuant to
14 applicable law or ordinance; (ii) any nuisance as that term is defined in § 15.2-900; (iii) any derelict
15 building as that term is defined in § 15.2-907.1; or (iv) any property that has been declared to be blighted
16 as that term is defined in § 36-49.1:1, the first anniversary of the date on which such taxes have become
17 due, such real estate may be sold for the purpose of collecting all delinquent taxes on such property.

18 However, in a qualifying locality, as defined in § 58.1-3221.6, whenever (a) taxes on any real
19 estate in the locality are delinquent upon the expiration of six months following the date on which such
20 taxes became due and (b) the locality has incurred abatement costs which remain unpaid upon the
21 expiration of six months following the date on which the abatement costs were first incurred, real estate
22 meeting the conditions described in clause (i), (ii), (iii), or (iv) may be sold for the purpose of collecting
23 all delinquent taxes and abatement costs on such property. For the purposes of this section, "abatement
24 costs" means costs incurred by a locality that result from the conditions described in clause (i), (ii), (iii),
25 or (iv).

26 Upon a finding by the court, on real estate with an assessed value of \$100,000 or less in any
27 locality, that (a) any taxes on such real estate are delinquent on December 31 following the first
28 anniversary of the date on which such taxes have become due or (b) there is a lien on such real estate
29 pursuant to § 15.2-900, 15.2-906, 15.2-907, 15.2-907.1, 15.2-908.1, or 36-49.1:1, which lien remains
30 unpaid on December 31 following the first anniversary of the date on which such lien was recorded, the
31 property shall be deemed subject to sale by public auction pursuant to proper notice under this subsection.

32 The officer charged with the duty of collecting taxes for the locality wherein the real property lies
33 shall, at least 30 days prior to instituting any judicial proceeding pursuant to this section, send a notice to
34 (1) the last known address of the property owner as such owner and address appear in the records of the
35 treasurer, (2) the property address if the property address is different from the owner's address and if the
36 real estate is listed with the post office by a numbered and named street address and (3) the last known
37 address of any trustee under any deed of trust, mortgagee under any mortgage and any other lien creditor,
38 if such trustee, mortgagee or lien creditor is not otherwise made a party defendant under § 58.1-3967,
39 advising such property owner, trustee, mortgagee or other lien creditor of the delinquency and the officer's
40 intention to take action. Such notice shall advise the taxpayer that the taxpayer may request the treasurer
41 to enter into a payment agreement to permit the payment of the delinquent taxes, interest, and penalties
42 over a period not to exceed ~~60~~ 72 months in accordance with the provisions of subsection C. Such officer
43 shall also cause to be published at least once a list of real estate which will be offered for sale under the
44 provisions of this article in a newspaper of general circulation in the locality, at least 30 days prior to the
45 date on which judicial proceedings under the provisions of this article are to be commenced.

46 The pro rata cost of such publication shall become a part of the tax and together with all other
47 costs, including reasonable ~~attorneys'~~ attorney fees set by the court and the costs of any title examination
48 conducted in order to comply with the notice requirements imposed by this section, shall be collected if
49 payment is made by the owner in redemption of the real property described therein whether or not court
50 proceedings have been initiated. A notice substantially in the following form shall be sufficient:

51 Notice

52 Judicial Sale of Real Property

53 On _____ (date) _____ proceedings will be commenced under the authority of §
54 58.1-3965 et seq. of the Code of Virginia to sell the following parcels for payment of delinquent taxes:

55 (description of properties)

56 B. The owner of any property listed may redeem it at any time before the date of the sale by paying
57 all accumulated taxes, penalties, reasonable ~~attorneys'~~ attorney fees, interest and costs thereon, including
58 the pro rata cost of publication hereunder. Partial payment of delinquent taxes, penalties, reasonable
59 ~~attorneys'~~ attorney fees, interest or costs shall not be sufficient to redeem the property, and shall not operate
60 to suspend, invalidate or make moot any action for judicial sale brought pursuant to this article.

61 C. Notwithstanding the provisions of subsection B and of § 58.1-3954, the treasurer or other officer
62 responsible for collecting taxes may suspend any action for sale of the property commenced pursuant to
63 this article (i) upon entering into an agreement with the owner of the real property for the payment of all
64 delinquent amounts in installments over a period that is reasonable under the circumstances, but that in no
65 event shall exceed ~~60~~ 72 months, or (ii) upon written notice by an individual, not a party to the action,
66 asserting ownership rights in the property that is the subject of the action arising by virtue of testate or
67 intestate succession, to the treasurer or other officer responsible for collecting taxes. The treasurer or other
68 officer responsible for collecting taxes shall promptly advise the court of such claim and seek leave to add
69 the individual asserting the claim as a party in the action. If the court determines that the individual
70 asserting the claim possesses an ownership interest in the property that is the subject of the action, such
71 individual may, within 30 days of the court's finding, enter into an agreement with the treasurer or other
72 official responsible for collecting taxes for the payment of all delinquent amounts in installments over a
73 period that is reasonable under the circumstances, but that in no event shall exceed ~~60~~ 72 months. Any
74 agreement under this subsection shall provide for the payment of current tax obligations as they come due,
75 which payments shall be credited to current tax obligations notwithstanding the provisions of § 58.1-3913
76 and shall be secured by the lien of the locality pursuant to § 58.1-3340.

77 D. During the pendency of any installment agreement permitted under subsection C, any
78 proceeding for a sale previously commenced shall not abate, but shall be continued on the docket of the
79 court in which such action is pending. It shall be the duty of the treasurer or other officer responsible for

80 collecting taxes to promptly notify the clerk of such court when obligations arising under such an
81 installment agreement have been fully satisfied. Upon the receipt of such notice, the clerk shall cause the
82 action to be stricken from the docket.

83 E. In the event the owner of the property or other responsible person defaults upon obligations
84 arising under an installment agreement permitted by subsection C, or during the term of any installment
85 agreement, defaults on any current obligation as it becomes due, such agreement shall be voidable by the
86 treasurer or other officer responsible for collecting taxes upon 15 days' written notice to the signatories of
87 such agreement irrespective of the amount remaining due. Any action for the sale previously commenced
88 pursuant to this article may proceed without any requirement that the notice or advertisement required by
89 subsection A, which had previously been made with respect to such property, be repeated. No owner of
90 property which has been the subject of a defaulted installment agreement shall be eligible to enter into a
91 second installment agreement with respect to the same property within three years of such default.

92 F. Any corporate, partnership or limited liability officer, as those terms are defined in § 58.1-1813,
93 who willfully fails to pay any tax being enforced by this section, shall, in addition to other penalties
94 provided by law, be liable to a penalty of the amount of the tax not paid, to be assessed and collected in
95 the same manner as such taxes are assessed and collected.

96 G. During the pendency of the action, the circuit court in which the action is pending may, on its
97 own motion or on the motion of any party, refer the parties to a dispute resolution proceeding pursuant to
98 the provisions of Chapter 20.2 (§ 8.01-576.4 et seq.) of Title 8.01.

99 H. In any case in which real estate subject to delinquent taxes is situated in two or more
100 jurisdictions, a suit to sell the entirety of the real estate pursuant to this article may be brought in a single
101 jurisdiction provided that (i) taxes are delinquent in all jurisdictions for periods not less than the minimum
102 applicable periods set forth in subsection A and (ii) the treasurer of each jurisdiction within which the
103 property is situated consents to the suit.

104 The suit shall identify the taxes, penalties, interest, and other charges due in each jurisdiction. The
105 publications and notices required pursuant to this section shall identify each of the jurisdictions in which
106 the property is situated. Upon sale of the property, the order confirming the sale shall provide for the

107 payment of taxes, penalties, interest, and other charges to each jurisdiction, and copies of the order
108 confirming the sale and the deed conveying the property to the purchaser shall be recorded among the land
109 records of the clerk's office of the circuit court for each jurisdiction within which the property that is the
110 subject of the suit is situated. No final order confirming sale shall be entered sooner than 90 days following
111 the provision of notice to parties in accordance with subsection A or, if later, 90 days following the receipt
112 of notice by the treasurer or other official responsible for collecting taxes from an individual, not
113 previously made a party to the action, in accordance with clause (ii) of subsection C.

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